

**ATTACHMENT 26 – TITLE 14 CALIFORNIA CODE OF REGULATIONS (CCR), SUBCHAPTER 4**

(1) Actions taken in response to an actual spill may be considered for exercise credit upon request of the owner/operator if all of the following conditions are met:

(A) the OSPR receives the documentation, as appropriate, outlined in Section 820.01(f); and,

(B) the OSPR receives documentation of State OES oil spill notification, and the owner/operator provides all the information required on the OSPR Notification Form (FG OSPR Form 1964); and,

(C) activation of the spill management team is successfully accomplished; and,

(D) OSPR or another regulatory agency responds to the spill. A written response/evaluation by the owner/operator may be accepted by OSPR in lieu of an agency report if an agency report is not prepared; and,

(E) the response was carried out in accordance with an approved contingency plan, the appropriate Area Contingency Plan, and/or in accordance with the directions of the Administrator or Federal On-Scene Coordinator; and

(F) the OSPR receives a report from the Responsible Party as to cause of the spill, and procedures or other measures adopted to prevent a similar recurrence.

(G) Plan holders must submit updated oil spill contingency plans showing the procedures developed for Subsection (F) above.

NOTE: Authority cited: Sections 8670.10 and 8670.28, Government Code. Reference: Sections 8670.7, 8670.10, 8670.28, 8670.29 and 8670.30, Government Code.

#### HISTORY

1. New section filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Change without regulatory effect amending NOTE filed 8-29-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
3. Amendment of section heading and section filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

## Subchapter 4. Oil Spill Contingency Plans, Nontank Vessels

### § 825.01. General Outline.

825.01 General Outline.

825.03 Purpose and Scope

825.05 Definitions

825.07 General Requirements

826 Plan Submittal, Review and Approval

826.01 Plan Submittal

826.02 Plan Format

826.03 Plan Review and Approval

826.04 Plan Implementation and Use

826.05 Plan Updates/Resubmission

826.06 Compliance Requirements/Penalties

827 Nontank Vessel Contingency Plans

827.01 Applicability

827.02 Nontank Vessel Plan Content

#### HISTORY

1. New subchapter 4 (sections 825.01-827.02) and section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).

### § 825.03. Purpose and Scope.

This subchapter sets forth planning requirements for oil spill prevention and response for nontank vessels (300 gross tons or greater) in California. The planning requirements specify that the owner/operator of a nontank vessel must own or have contracted for on-water recovery and storage resources sufficient to respond to all spills up to the reasonable worst case spill volume in the time frames specified. The owner/operator shall also demonstrate through contracts(s) or other approved means, the shoreline protection response resources necessary to protect each type of shoreline and all applicable sensitive sites as outlined in the appropriate Shoreline Protection Tables (SP Tables, see Section 790, incorporated by

reference herein and posted on OSPR's website). The Tables representing High Volume port areas (i.e., the San Francisco and Los Angeles/Long Beach Tables) will go into effect on May 1, 2007; all other Tables will go into effect on September 1, 2007. Equipment in addition to that under contract must be identified, and a call-out procedure in place to access additional response resources if needed. For the purpose of meeting the regulatory requirements herein, contracts for booming, on-water recovery and storage, and shoreline protection services can only be made with OSRO's Rated by the Office of Spill Prevention and Response. For other required services (e.g., shoreline clean-up, waste management, spill response management, etc.) contracts or other approved means with non-rated OSRO's may be used.

The equipment that the owner/operators have available must also be applicable to the areas of intended use. Nontank vessel owner/operators shall demonstrate adequate emergency services as described, by sufficient in-house capability or a signed, valid contract with a vessel emergency services provider.

The information required by this subchapter must be submitted to the Office of Spill Prevention and Response (OSPR), and maintained by the owner/operator, in separate volumes. A principal volume will be compiled to contain all the required information, calculations, studies, maps and related data. A separate volume will be set up as a initial response activity manual and will contain only the information that response personnel will need at the time of a spill to facilitate the immediate notification and response actions that are mandated.

To the greatest extent possible, California has endeavored that this subchapter be consistent with the scope and intent of California's tank vessel oil spill contingency plan regulations, the enabling legislation Senate Bill 1644 (Chapter 964, Statutes of 1998), the Federal oil spill response regulations, and the Area Contingency Plans (ACP) completed by the U.S. Coast Guard, State Agencies, and local governments, with public participation, as required by the Oil Pollution Act of 1990 (33 USC 2701, et seq.). Consideration shall be given to the differences in environmental risk between spills from nontank vessels and tank vessels. Information developed to demonstrate compliance with other applicable Federal, State, and International (e.g., International Maritime Organization, etc.) requirements may be used to demonstrate compliance with all or part of this subchapter to the extent that the information meets the requirements of this subchapter.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending last two paragraphs filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of section and NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 825.05. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Contract or Other Approved Means":

(1) includes either of the following:

(A) A written, signed contract, or written certification of active membership, between a plan holder and an Oil Spill Response Organization(s) (OSRO) rated by OSPR (as specified in Section 819.01 of this subchapter) This contract shall identify and ensure the availability of the required personnel and equipment capable of responding to an oil spill within the stipulated response times and in the specified Geographic Regions in which the nontank vessel; or

(B) Written certification that the necessary personnel and equipment are owned or operated by the plan holder and are available within the stipulated response times and in the specified Geographic Regions;

(2) The owner/operator shall notify the Administrator within five days of a change in contracted resources/membership with a local or regional OSRO.

(3) A contract between a plan holder and an OSRO shall not contain a provision requiring the plan holder to notify the OSRO in advance, in order to guarantee response services for two hours and beyond (as specified in Section 819.04(b)(2)) of this subchapter. For spill response coverage during oil transfer operations, advance notice to the OSRO is allowed. A plan holder shall comply with all other applicable contractual provisions or the contingency plan will immediately be nullified, and the plan holder will be operating in marine waters without an approved contingency plan, which is in violation of Section 826.06 of this subchapter.

(b) "Dedicated Response Resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are Rated. Ratings of six hours or earlier require either dedicated response resources or OSRO-owned and controlled response resources, as specified in Section 819.04(b)(2) of this subchapter.

(c) "Equipment Deployment Exercise" means an exercise of oil spill response equipment identified in an oil spill contingency plan or an OSRO application, through its actual deployment and operation as it would be used in spill response efforts in an environment of similar water depth, current velocity, tidal range, and substrate, where the equipment may need to be used in an actual oil spill response.

(d) "Implementation of the Plan" means that all essential provisions have been taken to enable the plan or any portion of the plan to become operational.

(e) "Innocent Passage" means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

(f) "Letter of Approval" means a written document issued by the Office of Spill Prevention and Response to the plan holder following verification, inspection and if required by the Administrator, satisfactory performance in an announced and unannounced drill, and final review and approval of the plan holder's contingency plan.

(g) "Marine Waters", means those California marine waters subject to tidal influence and includes all waterways used for waterborne commercial nontank vessel traffic to the Port of Stockton and the Port of Sacramento.

(h) "Nontank Vessel" means a vessel of 300 gross tons or greater, other than a tank vessel, not designed to carry oil as cargo.

(i) "OSRO-Owned and Controlled Resources" means equipment owned by the OSRO and personnel who are employed directly by the OSRO.

(j) "Plan Holder" means the owner/operator of a nontank vessel responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subchapter.

(k) "Plan Recipient" means a receiving agency and any other entity that has been designated in this subchapter to receive a copy of the nontank vessel oil spill contingency plan.

(l) "Reasonable Worst Case Spill" means a spill of the total volume of the largest fuel tank on the nontank vessel.

(m) "Shallow-Draft Vessel" means:

(1) for purposes of boom deployment, a vessel that must be able to operate in water depths of two feet or less;

(2) for purposes of skimming operations, a vessel and attendant skimming system that must be able to operate in water depths of three feet or less.

(n) "Spill Management Team" means the personnel identified in an oil spill contingency plan to staff the organizational structure that will manage all aspects of response, containment, and clean up and is able to fully integrate into an Incident Command/Unified Command structure, as required by the National Contingency Plan and the State Marine Oil Spill Contingency Plan.

(o) "Tabletop Exercise" means an exercise of an oil spill contingency plan and the spill management response efforts without the actual deployment of response equipment. A tabletop exercise usually involves the enactment of a response to a simulated spill.

(p) "Unannounced Drill" means an exercise of an oil spill contingency plan or an OSRO application initiated by OSPR without prior notice to the plan holder or oil spill response organization.

(q) "Waters of the State", for the purpose of this subchapter, means those California waters subject to tidal influence including all waterways used for waterborne commercial nontank vessel traffic including the Port of Stockton and the Port of Sacramento.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).

2. Change without regulatory effect amending subsections (a)(1), (a)(4)-(b) and (e), repealing subsections (g)-(h) and relettering subsections filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).

3. Amendment of section and NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

#### § 825.07. General Requirements.

(a) A nontank vessel of 300 gross tons or greater shall not operate in marine waters unless the owner or operator has an oil spill contingency plan prepared and submitted in accordance with this subchapter for the Geographic Regions (as defined in Section 790 of this subdivision) the nontank vessel transits. Nontank vessel plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819.01 of this subchapter), for the booming, on-water recovery and storage, and shoreline protection services required. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked and shall be deemed to meet the requirements of this subchapter for three years from the date of the letter's issuance.

(b) No person shall load oil onto, or from a nontank vessel unless the following conditions are met prior to transfer operations:

(1) after initial submittal but prior to approval of the contingency plan, the nontank vessel owner/operator must provide the owner/operator of the marine facility or vessel providing fuel with a certified copy of the letter/certificate acknowledging the receipt of the nontank vessel's oil spill contingency plan by the Administrator, if the marine facility or vessel providing fuel does not already have such a letter on file;

(2) after approval of the initial submittal of the contingency plan, the owner/operator of the nontank vessel must provide the owner/operator of the marine facility or vessel providing fuel with a copy of the letter approving the current oil spill contingency plan for that nontank vessel if the marine facility or vessel providing fuel does not already have such a letter on file;

(3) the nontank vessel owner/operator must notify the marine facility or vessel providing fuel of any change in the approval status not reflected by the letter on file at that marine facility; and

(4) the owner/operator of the nontank vessel must certify that a complete copy of the initial response activity manual for that nontank vessel is on board the nontank vessel.

(c) Each plan shall be consistent with the State Marine Oil Spill Contingency Plan and not in conflict with the National Contingency Plan, or the applicable Federal Area Contingency Plans.

(d) nothing in this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission or San Francisco Bay Conservation and Development Commission to review federal

activities, federal development projects, or federally-permitted or licensed activities, as authorized pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C., section 1451 et seq.). Nor shall this subchapter impair or limit the authority of the California Coastal Commission or San Francisco Bay Conservation and Development Commission to ensure such activities or projects are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Management Program. Nothing in this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission to ensure that development activities or projects, in which nontank vessels under 300 gross tons are involved, are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Act.

(e) All plans shall be written in English, and the initial response activity manual portion shall also be in a language that is understood by all crew members responsible for carrying out the plan.

NOTE: Authority cited: Sections 8670.32(a), (b) and (g), Government Code. Reference: Sections 8670.32(a), (b) and (g), Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of subsection (a), repealer of subsection (a)(5) and amendment of subsection (d) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 826. Plan Submittal, Review and Approval.

#### § 826.01. Plan Submittal.

##### (a) Plans:

Unless otherwise exempt, each owner/operator of a nontank vessel shall provide an oil spill contingency plan for that nontank vessel. The plan may be specific to an individual nontank vessel or may apply to a fleet of nontank vessels. All nontank vessel-specific elements required by Subsections 827.02(a) through (f) of this subchapter shall be addressed for an individual nontank vessel or all the nontank vessels included in a Fleet Plan.

##### (1) Response Elements:

##### (A) Nontank Vessel Fleet Plans

Fleet contingency plans may be submitted by an owner/operator that has a number of nontank vessels that transit the same or substantially the same routes in marine waters. Nontank vessels may be added to a fleet tank vessel contingency plan providing all of the requirements of this subchapter are met.

1. A fleet contingency plan shall contain all prevention and response elements required pursuant to this subchapter.

##### (2) Incorporation of Other Plans and Reference Documents

An individual or fleet contingency plan shall contain all prevention and response elements required pursuant to this subchapter. Citing specific relevant sections of appropriate reference material may be an acceptable alternative to reproducing the full text, maps, diagrams, etc., in the contingency plan. The Administrator will determine if such submissions or citations adequately meet the requirements of this subchapter prior to final plan approval. Examples of plans or other reference documents that may be submitted or cited include, but are not limited to, the following:

(A) Plans Submitted to International, Federal or State Authorities: Appropriate sections of plans submitted to and approved by any state, federal or international authority may be either submitted or cited, as approved by the Administrator, to meet part of the requirements contained in this subchapter. These references may include documents submitted to comply with California's tank vessel contingency plan requirements, U.S. Coast Guard requirements, or the International Safety Management (ISM) Code.

(B) Federal Area Contingency Plans (ACP) and Geographic Response Plans (GRP): Information from ACP's and GRP's currently in effect which meet the requirements of Subsections 827.02(g) through (n) may be cited. Information from ACP's and GRP's that are not currently in effect must be submitted.

(C) Privately Prepared Reference Documents: Private companies may prepare reference documents specifically intended to address part or all of the requirements of Subsections 827.02(g) through (n) of this subchapter. These documents may incorporate other plans or reference documents pursuant to this Subsection 826.01(a)(2). With a company's authorization, a plan holder may submit such a document in its entirety to meet part or all of the requirements of Subsections 827.02(g) through (n).

##### (D) Rated OSRO:

When contracting with an OSRO, Rated by OSPR pursuant to Title 14, California Code of Regulations (CCR) Section 819.02, to meet the oil spill response requirements under this subchapter, the owner/operator may cite the Rated OSRO application in lieu of listing the OSRO's response resources which meet the requirements of 14 CCR Section 819.02.

1. An OSRO Rating does not guarantee the performance of an OSRO, nor does the use of an OSPR-Rated OSRO in a contingency plan relieve the plan holders of their ultimate statutory and regulatory responsibility to ensure the adequacy of the spill response resources identified in their contingency plan.

(E) If approved by the Administrator, plans, reference texts and other materials not listed above may be submitted to meet part of the requirements of this subchapter.

##### (b) Time frames:

(1) Any nontank vessel that is operating shall submit a contingency plan that is received by OSPR at least seven working days prior to entering marine waters. Nontank vessel owner/operators shall notify the Administrator by facsimile prior to entering marine waters for the harbors of Humboldt Bay, Port Hueneme, Monterey Bay, and San Diego, and the ports of Stockton and Sacramento.

(2) On a one-time basis only, the Administrator may allow a nontank vessel to enter marine waters in a shorter time period if the nontank vessel owner/operator provides to OSPR all of the following:

(A) Nontank vessel name, call sign, official number, length, gross tonnage, fuel type and total volume, capacity of largest fuel tank, type of cargo carried, amount of cargo on-board, destination, intended route while in the marine waters, and address and telephone number of both the owner and operator;

(B) A copy of a valid contract for response resources that meet the requirements of this subchapter;

(C) Identification, including telephone number and facsimile number, of a Qualified Individual; and

(D) Evidence of Financial Responsibility in the amount of three hundred million dollars (\$300,000,000).

##### (c) Receiving Agencies:

(1) One copy of the applicable contingency plan (either hard copy or electronic media — see Section 826.02) covering each Geographic Region the nontank vessel transits shall be delivered to the Marine Safety Branch of the Office of Spill Prevention and Response within the Department of Fish and Game. Delivery of the plan may be in person or by registered mail with return receipt requested, or the equivalent. Additional hard copies shall be provided to an OSPR regional office upon request.

(2) Within two working days of a request from the Administrator, additional copies (hard copy or electronic media) shall be mailed by the plan holder to other member agencies of the State Interagency Oil Spill Committee and the State Oil Spill Technical Advisory Committee.

(3) Any additional copies shall be submitted within two working days of a request by the Administrator.

##### (d) Confidentiality:

(1) A plan holder may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the plan that is made available for public review.

(A) A plan holder may also request that any reports or studies prepared or submitted under any contingency plan requirements be designated as

proprietary information. Such a request must include justification for designating the report or study as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If a plan holder designates information as confidential, two different copies of the plan must be submitted as follows:

(A) one copy shall contain the confidential information. This plan will be utilized by the Administrator in the review and approval process;

(B) one copy shall be submitted with the confidential information removed. This copy will be available for public review. This plan must contain sufficient information in place of the confidential information so that any individual reviewing the plan will understand all the notification, prevention and response elements of the plan.

(C) Any plan submitted to any state agency, as required by this section, must include all confidential information.

NOTE: Authority cited: Sections 8670.32(c) and (g), Government Code. Reference: Sections 8670.32(c) and (g), Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect repealing subsections (a)(1)(B)-(a)(1)(B)2. and amending subsections (b)(2)(B) and (d)(1)-(d)(1)(A) filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsection (a)(2)(D), new subsection (a)(2)(D)1., amendment of subsections (b) and (c)(1)-(2) and repealer of subsection (c)(4) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 826.02. Plan Format.

OSPR will accept either an original hard copy of the contingency plan or a CD-ROM formatted contingency plan with an original, signed copy of the "Feasibility and Executability Statement" required by this subchapter. Other documents required to be submitted with the contingency plan, such as signed contracts with Oil Spill Response Organizations, may be scanned on the CD using Adobe Acrobat. Although not required, it is requested that the Table of Contents be linked to the different sections of the plan. Also, if a Federal Vessel Response Plan (VRP) or other non-California plan format it used, it is requested that the plan be electronically linked to the plan sections that comply with California's requirements. Each plan shall be organized into at least two separate volumes: an initial response activity manual and a principal volume or volumes with related appendices. The format for each is outlined below:

#### (a) Initial Response Activity Manual:

A simplified initial response activity manual, suitable for on-scene use in the event of a spill, which summarizes the key notification information outlined in subsection 827.02 (d) and the initial shipboard response actions necessary to minimize the impact of a spill on marine waters, shall be prepared and submitted with each plan.

(1) Nontank vessels that have an approved Ship-board Oil Pollution Emergency Plan (SOPEP), may certify compliance with the emergency ship-board procedures requirements of the SOPEP, or may submit a copy of their Letter of Approval for their SOPEP, in lieu of providing the initial shipboard response actions specified in (a) above. The SOPEP shall be submitted to the Administrator upon request,

(2) The initial response activity manual shall be maintained on board the nontank vessel at all times.

#### (b) Principal Volume of the Plan:

(1) The principal volume of the plan shall include all the required information including a summary of the conclusions of all studies, calculations and analyses, as applicable.

(2) The principal volume of each plan shall be organized to facilitate access to information, and shall include:

(A) a detailed table of contents with chapters arranged, to the extent possible, in the same order in which the requirement for that information appears in this subchapter, or alternately with a cross reference to the requirements of this subchapter;

(B) a system of numbered chapters, sections and appendices;

(C) index tabs for locating plan chapters;

(D) a log sheet placed in the front of the plan for recording all amendments and updates; and

(E) amendments and updates that are consecutively numbered and dated.

(3) If hard copies of the plan are submitted, they shall be submitted on 8 1/2 by 11 inch paper, in a loose-leaf 3-ring binder to allow replacement of chapters or appendix pages without requiring replacement of the entire plan. Amendments and updates shall be hole-punched and in a format that will fit the binder that was submitted with the plan.

(4) All hard copy and electronic documents submitted will become the property of the Administrator. The documents will be retained by the Administrator for a minimum of three (3) years unless the plan is withdrawn by the submitter.

#### (c) References to Other Plans or Documents:

If references to other plans or documents are included in a contingency plan, as specified in Section 826.01(a)(2) above, the following must also be submitted:

(1) a listing of all the elements of the individual or fleet nontank vessel contingency plan that will be replaced by elements in the referenced plan or document, with an index specifying the location of the required elements, by regulation section, that will be met by the referenced plan or document.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of first paragraph and subsection (b)(3), new subsection (b)(4) and amendment of NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 826.03. Plan Review and Approval.

(a) No nontank vessel shall operate in marine waters until the owner/operator is notified that the contingency plan meets the minimum requirements listed in this subsection. A contingency plan shall be reviewed for these minimum requirements within seven working days of notification that the nontank vessel is entering marine waters, and the vessel owner/operator shall be notified in writing that: 1) the plan meets the minimum requirements; or 2) the plan is deficient and what specific information is needed, and that the nontank vessel shall not enter marine waters until the following information has been provided:

(1) Nontank vessel name, call sign, official number, length, gross tonnage, fuel type and total volume, capacity of largest fuel tank, destination, intended route while in marine waters, and address and telephone number of both the owner and operator;

(2) Evidence of a contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits;

(3) Identification, including telephone number and facsimile number, of a Qualified Individual; and

(4) Evidence of financial responsibility in the amount of three hundred million dollars (\$300,000,000). Documentation that a California Certificate of Financial Responsibility is being processed will fulfill this requirement.

#### (b) Time frames:

(1) After notification that the plan meets the minimum requirements specified in Subsection (a), each plan shall be reviewed for all the requirements of this subchapter and be approved or denied within 180 days.

(2) The Administrator shall determine whether each plan complies with the regulations governing the contingency planning process. If the administrator determines that a plan is inadequate, a written explanation of deficiencies shall be sent to the plan holder.

(3) Upon notification of a plan's deficiencies, the plan holder will have 90 days to submit a new or modified plan, or make corrections to their original plan. Such a re-submittal shall be treated as a new submittal and processed according to the provisions of this section (b).

(c) Prior and subsequent to plan approval, the Administrator may make an on-site inspection and require an unannounced drill of all or part of any contingency plan submitted in order to determine the plan's adequacy pursuant to the authority in Government Code Section 8670.10(a).

(d) Public Review and Comment: Contingency plans will be made available for review by any interested member of the general public at the headquarter's office of OSPR.

(1) Any person interested in reviewing the plan shall contact the Administrator to request an appointment to review the plan at the headquarter's office of OSPR. Copies of the plans will be provided at the cost of duplication.

(2) Any interested person may review a plan and submit written comments prior to the Administrator's approval or disapproval of the initial plan or plan updates. Such comments will be taken into consideration in the Administrator's review process.

(e) Plan Approval:

(1) Unless the Administrator determines otherwise on a case-by-case basis, a contingency plan will be considered to be effective upon notification per Subsection (a) pending final approval unless and until the owner/operator is notified that the plan is inadequate per Subsection 826.03(f).

(2) A contingency plan shall be approved if it adequately addresses all of the requirements specified in this subchapter.

(3) Any revised plan submitted by an owner/operator in response to a notification of inadequacy shall be considered approved unless otherwise notified by the Administrator within the time frames established in Section 826.03(b).

(4) The Administrator shall consider any comments submitted by other agencies or interested parties when approving or disapproving the plan.

(5) The Administrator shall notify the plan holder when a contingency plan has been approved. The Administrator shall issue a letter of approval and certificate describing the conditions of approval, if any, and specifying the expiration date of the Letter of Approval and certificate.

(f) Denial or Revocation of Plan:

(1) Approval shall be denied or revoked if a plan does not comply or maintain compliance with this subchapter.

(2) If approval is denied or revoked, the Administrator shall notify the plan holder in writing of the reasons for denial or revocation and provide an explanation of those actions necessary to secure approval.

(A) the plan holder shall have 90 calendar days from notification to submit a new or revised plan that incorporates the recommended changes, during which time the plan is considered effective pending final approval. If the plan holder fails to address plan deficiencies within 90 calendar days of notification, the plan may be denied a second time.

(B) No nontank vessel shall operate in marine waters if it fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, until a subsequent submission is approved.

(C) If a plan holder fails to address plan deficiencies within 90 calendar days from notification of a second plan denial, the Administrator may, without further notice, declare the plan null and void.

(g) Appeals: The plan holder may appeal a decision made by the Administrator regarding a contingency plan in accordance with the following provisions:

(1) the plan holder may submit a written request for reconsideration to the Administrator regarding any decision of denial or revocation of approval. Requests must be submitted within 15 working days from the date the plan holder receives notice that final approval of the plan has been denied. The request must contain the basis for the reconsideration and, if available, provide evidence which rebuts the basis for the Administrator's decision regarding the plan;

(2) within 15 working days following the receipt of the request for reconsideration, the Administrator shall send the plan holder a notice that the decision has been rescinded and that the plan is approved, or that the

Administrator rejects the request for reconsideration and shall adhere to the earlier decision;

(3) the plan holder may, within 15 working days after receipt of notice that reconsideration has been denied, request a hearing in writing. No such hearing may be requested unless and until all remedies pursuant to this section have been exhausted. The Administrator shall conduct a reconsideration hearing upon request;

(4) the proceedings and hearings under this section shall be conducted in accordance with Chapter 4.5 (commencing with Section 11400) of Part I of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11460.80 of the Government Code.

(h) Proof of Approval:

The Letter of Approval shall be presented upon request to the operator of a marine facility or vessel providing fuel prior to an oil transfer.

(i) Liability: Approval of a plan does not constitute an express assurance regarding the adequacy of the plan in the event of a spill nor does it constitute a defense to liability on the part of the operator or owner.

NOTE: Authority cited: Sections 8670.32(b), (c) and (g), Government Code. Reference: Sections 8670.132(g), and (h), 11400-11470.50 and 11460.80, Government Code.

HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending section filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsection (f)(2)(A)-(B), new subsection (f)(2)(C) and amendment of subsections (g)(1), (g)(3) and (h) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 826.04. Plan Implementation and Use.

(a) Availability:

(1) Nontank Vessel Initial Response Activity Manual

(A) The owner/operator shall maintain a copy of the nontank vessel's approved initial response activity manual.

(B) The owner/operator shall maintain a copy of the nontank vessel's approved initial response activity manual on board the nontank vessel at all times.

(C) The approved initial response activity manual must be in a central location accessible to key response personnel at all times.

(2) The qualified individual shall maintain a complete copy of the contingency plan including the initial response activity manual and any material referenced in the plan. The plan and any referenced material must be available for use in the event of an incident.

(3) Immediate Notification Information

(A) the immediate response and notification information shall be posted in a conspicuous location with access to a telephone, or other similar means of communication. This information shall include the names and telephone numbers of the individuals, agencies and organizations who must be immediately notified when a spill occurs.

(b) Implementation:

(1) Each contingency plan shall be effective upon submittal, pending final approval, or until denied or revoked, as described in Section 826.03(f).

(2) An owner/operator, or any of his/her agents and employees shall use and implement the contingency plan in the event of an oil spill or an oil spill drill.

(3) Any deviation from any major element of the contingency plan must be approved by the Administrator in advance of the change. A major element is one that will affect timely and adequate oil spill response.

(4) All involved parties shall carry out whatever direction is given by the Administrator in connection with the response, containment, and clean up of a spill. A responsible party or potentially responsible party may refuse to accept a directive from the Administrator if:

(A) the directions of the Administrator are in direct conflict with directions from the Federal On-scene Coordinator; and/or



(B) the party reasonably, and in good faith, believes that the directions or orders given by the Administrator will substantially endanger the public safety or the environment.

(5) If a party refuses to accept the directive of the Administrator, the party shall state the reason why they have refused at the time of refusal, and:

(A) the party who has refused a directive shall follow up a verbal explanation of their refusal with a written notice to the Administrator explaining in full the reason(s) for refusing the directive. The written notice must be submitted to the Administrator within 48 hours of the refusal;

(B) the burden of proof shall be on the party to demonstrate, by clear and convincing evidence, why refusal to follow orders was justified.

(6) Failure to implement the plan appropriately shall constitute a violation of this subchapter.

(c) Coordination With Other Plans:

(1) Each plan shall be consistent with an approved State Marine Oil Spill Contingency Plan and not in conflict with the National Contingency Plan.

(2) Beginning with the first review and resubmission, each plan submitted shall be consistent with the appropriate Area Contingency Plan(s) completed by the Coast Guard, State Agencies, and Local Governments as required by the Oil Pollution Act of 1990, that are in effect on January 15 of the year in which the contingency plan update is required.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending subsection (b)(1) filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsections (b)(3) and (c)(1) and amendment of NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 826.05. Plan Updates/Resubmission.

(a) Time frames:

(1) Update and Review

(A) All existing plans for nontank vessels shall be resubmitted for review on September 1, 2001, and then once every five years thereafter from the date of approval.

1. A complete new plan must be resubmitted for the update and review only if there have been changes to the original plan or update since the last submittal. If the original plan or submitted updates have not changed, or the relevant Area Contingency Plan has not been amended, the owner/operator may submit a letter to the Administrator stating that the plan currently on file with the OSPR is up-to-date and complete.

(B) The Administrator may require earlier or more frequent resubmission than that required in Subparagraph (A). The Administrator shall notify the owner/operator in writing if an earlier update is required. The notice shall include an explanation for the reasons for the update and the time frame to comply with the resubmission. The circumstances that would warrant an earlier review or update include, but are not limited to, the following:

1. a change in regulations or statute;
2. the development of new oil spill response technologies as determined by the Administrator during any review of response capability standards;
3. deficiencies identified during the Administrator's review of all the oil spill contingency plans;
4. an increased need to protect plant and wildlife habitat;
5. deficiencies in oil spill response capability identified during an oil spill;
6. deficiencies in oil spill response capability identified during an oil spill drill;
7. significant changes to the nontank vessel; and
8. any other situation deemed appropriate by the Administrator where deficiencies in the ability to provide timely and effective oil spill response are identified.

(2) Unscheduled Updates

(A) The Administrator shall be notified as soon as possible, but at least within 24 hours, of any significant change or update to an approved plan.

1. A significant change is one that could affect timely and adequate oil spill response including changes in nontank vessel ownership or P&I club coverage.

2. Changes which are not significant include minor changes in equipment, personnel, or operating procedures which do not affect timely and adequate oil spill response.

3. As soon as administratively feasible, the Administrator will approve any change that would benefit the public health and safety, improve environmental protection, or facilitate more effective response, containment and clean up.

(b) Review and Approval of Plan Updates:

(1) The Administrator shall deny approval of a resubmitted plan, or updated section(s) of a plan, if it is no longer adequate according to the adopted regulations in effect at the time of resubmission.

(2) The review will be processed in accordance with the same time frames and procedures for submission of the initial plan.

(c) Logging and Distributing the Revised Plan:

(1) within 15-days of the Administrator's approval of revisions:

(A) the contingency plan holder shall distribute the revised plan page(s) to all plan recipients.

Faxed updates for insertion into the plan are not acceptable.

(2) The updated page(s) shall have an update number and date revised on the bottom of each page, and shall be accompanied by an index of updates that includes update number, date revised, page(s) revised, and subject matter of update. As an alternative to the hard copy, this information may be submitted on electronic media, in a format approved by the Administrator (see Section 826.02)).

(3) The log sheet, located in the front of the plan, shall be used to record the date the amendment was received, the initials of the individual who received the amendment, and a description of the change.

(d) Each plan recipient and/or each plan holder, as appropriate, must incorporate and utilize all updated materials as provided by the plan holder.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

#### HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending subsections (a)(1)(A)1.-(B), (c)(1)(A) and (d) and repealing subsection (c)(1)(B) filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsections (a)(1)(A)-(A)1. and (c)(2) and amendment of NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

### § 826.06. Compliance Requirements/Penalties.

(a) Except as provided in Subsection 827.01(b) of this subchapter, any nontank vessel subject to the provisions of this subchapter that enters marine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator shall be subject to an administrative civil penalty of up to one hundred thousand dollars (\$100,000). The Administrator shall assess the civil penalty against the owner or operator of the nontank vessel. Each day the owner/operator of such a nontank vessel is in violation shall be considered a separate violation.

(b) Except as provided in Subsection 827.01(b) of this subchapter, any nontank vessel owner/operator who knowingly and intentionally has the nontank vessel enter marine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator is guilty of a misdemeanor punishable by up to one year of imprisonment in the county jail, or by a fine of up to ten thousand dollars (\$10,000), or by both the imprisonment and a fine. Each day the owner/operator of such a nontank vessel is in knowing and intentional violation shall be considered a separate violation.

NOTE: Authority cited: Sections 8670.28, 8670.29 and 8670.57, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

## HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

**§ 827. Nontank Vessel Contingency Plans.****§ 827.01. Applicability.**

## (a) Plans:

Unless nontank vessels are exempt as provided in Subsection (b) below, oil spill contingency plans shall be prepared, submitted and used pursuant to the requirements of this subchapter by all nontank vessels, 300 gross tons or greater, which transit in marine waters (as defined in Section 825.05 of this subchapter).

## (b) Exemptions:

(1) Contingency plans are not required for non-self propelled nontank vessels that do not carry any oil.

(2) This subchapter shall not apply to a nontank vessel that enters marine waters because of imminent danger to the crew, or in an effort to prevent an oil spill or other harm to public safety or the environment. This exemption applies if the following are met:

(A) the operator and crew comply with all orders given by the Administrator or his/her designee, unless the orders are contradicted by orders from the U.S. Coast Guard;

(B) the nontank vessel shall leave marine waters as soon as it is safe to do so, unless a contingency plan is approved or made applicable to its operation.

## (3) Response Vessels

Contingency plans are not required for dedicated response vessels, which are those vessels that are dedicated to conducting response activities for an oil spill incident exclusively.

## (4) Innocent Passage

Contingency plans are not required for nontank vessels engaged in innocent passage (as defined in Section 825.05 of this subchapter) within the waters of the state.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

## HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

**§ 827.02. Nontank Vessel Plan Content.**

Nontank vessel owner/operators shall submit an individual nontank vessel or fleet contingency plan which shall include all of the information required by Subsections 827.02 (a) through (n) for each of the Geographic Regions the nontank vessel transits. Some of the documentation described in Subsection 826.01(a)(2) may be used in lieu of developing comparable documentation to fulfill certain required contingency plan elements if the documentation meets the requirements of this subchapter. NOTE: Subsections 827.02(a) through (f) contain the nontank vessel-specific elements of an oil spill contingency plan.

## (a) Introductory Material:

(1) The owner/operator shall provide the following information for each nontank vessel covered by the plan:

(A) the nontank vessel's name, country of registry, radio call sign, official identification number, IMO number and Lloyd's identification number as applicable;

(B) name, address, phone number, fax number and email address if available of the owner and/or operator of the nontank vessel(s). This information shall be referenced in the plan title or on a title page at the front of the plan;

(C) the name, address, phone number, fax number and email address if available of the person to whom correspondence should be sent;

(D) the nontank vessel's classification, hull type, gross tonnage, maximum fuel amounts, length, draft and beam;

(E) Certification Statement

1. Owner/operators shall provide a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holders' management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format:

"I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the state of California, that the nontank vessel-specific information contained in this contingency plan is true and correct and that the plan as a whole is both feasible and executable."

(Signature), (title), (date);

(F) the California Certificate of Financial Responsibility (COFR) number for the nontank vessel(s) covered by the plan shall be included in the front of the plan or for fleet shall be indexed separately in a subsection of the plan.

(G) Evidence of a contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819.01 of this subchapter) for the booming, on-water recovery and storage, and shoreline protection services required.

(H) a copy of the nontank vessel's oil transfer procedures, in English.

(2) Each plan shall identify a Qualified Individual (as defined in Chapter 1, Section 790 of this subdivision) and any alternates that may be necessary for the purpose of implementing the plan. If the plan holder contracts for this service, documentation that the Qualified Individual or company, and any identified alternates, acknowledge this capacity shall be included in the plan, for each nontank vessel covered by the plan. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive legal documents on behalf of each plan holder covered by the plan. If the plan holder contracts for this service, documentation that the agent for service of process acknowledges this capacity shall be included in the plan. Such agent shall be located in California.

## (b) Nontank Vessel Fuel and Tankage Description/Capacity:

(1) The owner/operator shall provide information on the type(s) of fuel(s) normally used by each nontank vessel covered by the plan. A material safety data sheet (MSDS) or equivalent for each type of fuel used shall be provided to the Administrator upon request.

(2) Each plan shall provide information on the total fuel capacity and the capacity of the largest fuel tank, of each nontank vessel covered by the plan.

## (c) Prevention Measures:

(1) As applicable, the owner/operator shall either submit a Certificate Of Inspection (COI) issued by the U. S. Coast Guard, or a summary of certificates issued by a member of the International Association of Classification Societies of the most recent nontank vessel inspection, or verify that the nontank vessel has such a certificate or summary and that the certificate is available for review.

(2) Nontank Vessels Subject To The International Safety Management Code

(A) The owner/operator shall also submit a copy of their Safety Management Certificate to demonstrate compliance with the performance elements in the International Safety Management (ISM) Code subject to IMO Resolution A.741(18), or shall submit proof of compliance with the



American Waterways Operator (AWO) Responsible Carrier Program, whichever is applicable. ISM Code requirements currently apply to: passenger ships, including passenger high speed craft; oil tankers; chemical tankers; gas carriers; bulk carriers; and cargo high-speed craft of 500 gross tons or greater.

(B) ISM Code requirements will apply to other cargo ships and mobile offshore drilling units of 500 gross tons or greater on July 1, 2002, and the owner/operator shall submit a copy of their Safety Management Certificate on or before that date.

### (3) Bunkering Operations

(A) When conducting bunkering operations in marine waters, a nontank vessel shall carry a seven-barrel spill kit for on-deck oil spills containing the following:

1. sorbents sufficient to contain seven barrels of oil;
2. non-sparking hand scoops, shovels, and buckets;
3. containers suitable for holding seven barrels of recovered waste;
4. a minimum of 15 gallons of a deck cleaning agent;
5. appropriate protective clothing to protect personnel from inhalation hazards, eye exposure, and skin contact;
6. non-sparking portable pumps with appropriate hoses; and
7. the equipment required in this section shall remain ready and pumps with appropriate hoses shall be ready for immediate use during bunkering operations.

(B) The equipment, personnel and procedures sufficient to contain a 50 barrel spill shall be present on-site during all transfer operations and deployable immediately in the event of an oil spill. Response resources owned or under contract to the marine facility or tank vessel engaged in oil transfer operations may be used to meet this requirement.

### (d) Notification Procedures:

(1) The owner/operator shall provide a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24-hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;
2. telephone number or other means of contact for any time of the day; and
3. an alternate contact in the event the individual or office is unavailable.

(B) detail the procedures for reporting oil spills to all appropriate local, state and federal agencies within each of the six Geographic Regions that the nontank vessel transits;

(C) establish a clear order of priority for notification.

### (2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO in each of the six Geographic Regions that the nontank vessel transits immediately, but no longer than within 30 minutes, after the discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Governor's Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) Each plan shall include all phone numbers necessary to complete the immediate notification procedures.

(3) Each plan should identify a call-out procedure to acquire equipment in addition to that under contract, to access this equipment if the nontank vessel has a spill that exceeds its reasonable worst case spill.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) nontank vessel name, country of registry, call sign, and official number;

(B) location of the incident;

(C) date and time of the incident;

(D) course, speed and intended track of the nontank vessel;

(E) the nature of the incident;

(F) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(G) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(H) the size and appearance of the slick;

(I) prevailing weather and sea conditions;

(J) actions taken or planned by personnel on scene;

(K) current condition of the nontank vessel;

(L) injuries and fatalities; and

(M) any other information as appropriate.

(5) Reporting of a spill as required by Subsection 827.02(d)(2) shall not be delayed solely to gather all the information required by Subsection 827.02(d)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On-Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this time frame, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command may meet the requirements of this subsection.

### (e) Shipboard Drills and Exercises

NOTE: Spill management team and response organization drills and exercises are addressed in Section 827.02(m) of this subchapter.

(1) Each plan shall describe the vessel's drill and exercise program that meets the requirements of Section 820.01(a), to ensure that the elements of the plan will function in an emergency.

(2) Training sessions may constitute creditable drills and exercises if all requirements of Subsections 820.01(a) ("Drills and Exercises") of this subdivision are met. Onboard emergency procedure drills conducted aboard the nontank vessel and properly logged may be credited.

### (f) Post-Spill Review:

Each plan shall provide for post-spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator within 90 days following the completion of response and clean-up procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

NOTE: Subsections 827.02(g) through (n) contain the response elements of an oil spill contingency plan.

### (g) Planning for the Location of Response Resources:

The owner/operator must be prepared to respond to a spill anywhere within marine waters where the nontank vessel operates. To determine the regions in which response equipment and personnel must be available, the owner/operator shall include in the plan a description of the nontank vessel's normal routes of travel including a list of each of the six Geographic Regions that the nontank vessel transits along these routes. OSPR has developed "Shoreline Protection Tables" (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website) for vessel traffic in California's marine waters. Owners/operators shall meet the response resource and time frame requirements from the appropriate SP Tables when contracting for shoreline protection services.

### (h) Containment Booming and On-Water Recovery:

(1) Each plan holder must provide a contract or other approved means for the containment booming and on-water recovery response resources up to their reasonable worst case spill volume for all potential spills from the nontank vessel that could reasonably be expected to impact marine

waters. Each plan must demonstrate response resources sufficient to address potential spills in each Geographic Response Plan Area (GRA) if available, or Geographic Region through which the nontank vessel may transit. (GRA's are geographic subdivisions of ACP areas). To determine the amount of response resources for containment booming and on-water recovery the reasonable-worst case spill volume must be determined, which is the total volume of the single largest fuel tank of all the nontank vessels covered by the plan.

Each plan shall contain a copy of the contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits. This requirement can be met by a copy of the basic written agreement with an abstract of the recovery and/or clean-up capacities covered by the contract.

#### (2) Response Capability Standards

The equipment and personnel necessary to address the reasonable worst case spill are brought to the scene of the spill within a period of time. The time frames are dependent upon the risk zone in which the nontank vessel is located and is specified in Subsection (B), below.

The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to that under contract must be identified and a call-out procedure in place to access this equipment if the nontank vessel has a spill that exceeds its reasonable worst case spill. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning volume.

#### (A) On-Water Daily Recovery Rates and Containment Boom Amounts

1. The total amount of on-water recovery equipment and services required shall be the amount necessary to address the reasonable worst case spill volume.

2. The time frames for response resource delivery are specified in Subsection 827.02(h)(2)(B), below. Appropriate equipment to address the reasonable worst case spill volume must be capable of being at the scene of the spill at the hour specified which is measured from the time of notification, as described in Subsection 827.02(d) of this subchapter. All on-water recovery response resources shall be capable of being deployed and operable within one hour of arrival at the scene of the spill or drill but no later than the designated time frame for each risk zone.

3. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow-water response capability (refer to the relevant Area Contingency Plan), the plan shall provide for an adequate number of shallow-draft vessels (as defined in Section 825.05 of this subchapter) to be owned or under contract or other approved means and available to respond to provide shoreline protection of the sensitive sites potentially impacted by a spill. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified.

4. The time frames for equipment delivery and deployment as specified in this subsection do not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 827.02(j)(6), and as required by the California Occupational Safety and Health Administration. In addition, these time frames do not account for delays that may occur due to weather or sea state. The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or a drill and will take into account the prevailing conditions of weather and sea state, as well as the site assessment requirements.

#### (B) Delivery Times

1. Nontank vessels operating in High-Volume Ports (as defined in Section 790 of this subdivision) shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume

at the scene of the spill within 12 hours of notification, except as provided below:

i. nontank vessels that transit: 1) inward of the inland line of demarcation as described in 33 CFR Section 80.1142 for San Francisco harbor; 2) inwards of a six nautical mile radius of Long Beach Light (LLNR 3025) [33-43.4N, 118-11.2W] outside the entrance to the Los Angeles/Long Beach Harbors on the Los Angeles and Long Beach Harbor Chart #18751; and 3) the Ports of Stockton and Sacramento, shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within six hours.

ii. in addition, when conducting bunkering operations within the High Volume Ports and the ports of Stockton and Sacramento, there must be 2500 barrels/day or 10% of the nontank vessel's total fuel capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

iii. if containment equipment for a 2500 barrel spill, or 10% of the nontank vessel's total fuel capacity, whichever is less, can immediately be deployed, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

iv. In addition nontank vessels, when not conducting bunkering operations, but when operating in the Ports of Stockton and Sacramento shall have containment boom and associated deployment equipment for a 2500 barrel spill pre-staged such that it can be immediately deployed.

2. Nontank vessels operating in Facility/Transfer Areas or the Santa Barbara Channel Area (as defined in Section 790 of this subdivision) shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within 12 hours of notification.

i. in addition, when conducting bunkering operations within the Facility/Transfer Areas or the Santa Barbara Channel Area, there must be 2500 barrels/day, or 10% of the nontank vessel's total fuel capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

ii. if containment equipment for a 2500 barrel spill, or 10% of the nontank vessel's total fuel capacity, whichever is less, can immediately be deployed, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

iii. In addition, nontank vessels, when not conducting bunkering operations but when operating in Humboldt Bay and Monterey Bay, shall have containment boom and associated deployment equipment for a 2500 barrel spill pre-staged such that it can be immediately deployed.

3. Nontank vessels that transit along the Balance of the Coast (as defined in Section 790 of this subdivision), within marine waters shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within 18 hours of notification.

i. in addition, when conducting bunkering operations within the Balance of the Coast there must be 2500 barrels/day, or 10% of the nontank vessel's total fuel capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification.

#### (3) On-Water Response Equipment and Services

(A) Each plan shall demonstrate that the nontank vessel owner/operator has under contract or other approved means (as defined in Section 825.05 of this subchapter), access to all necessary response resources to comply with the required containment booming and on-water recovery established pursuant to Subsection 827.02(h)(2)(B). The amount of response equipment required will take into account the derated capacity (as defined in Chapter 1, Section 790 of this subdivision) of the equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow-water response capability (refer to the relevant Area Contingency Plan), the plan shall provide for an adequate number of shallow-draft vessels (as defined in Section 825.05 of